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| EXAMINER |
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3626

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/510,607

Applicant(s)

KENNEDY, BRIAN M.

Examiner

Carolyn M. Bleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/8/03, 12/15/03, 12/9/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 21 November 2005. Claims 11-42 are pending. The Information Disclosure Statements filed on 4/8/03, 12/15/03, and 12/9/04 have been entered and considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the components of the "system operable to computer the amount." Applicant fails to particularly point out and distinctly claim any of the system elements of claims 11 and 19.

Claims 12-18 and 20-26 incorporate the deficiencies of claims 11 and 19 through dependency, and are therefore rejected for the same reasons, and incorporated herein.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 11-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

(A) Claims 11 includes a system comprising at least two seller models and a system operable to computer the amount of the product that is ATP at a seller.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

Computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

Nonfunctional descriptive material that does not constitute a statutory process, machine, manufacture, or composition of matter and should be rejected under 35 U.S.C. 101. Certain types of descriptive material, such as music, literature, art, photographs, and mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture, or composition of matter.

In this case, claim 11 is either directed towards software per se (i.e., functional descriptive material per se) or a mere arrangement of data (nonfunctional descriptive material per se). Based on Applicant's originally filed specification, the models and system described in claim 1 appear to be either software (page 5, line 24) or data (Figures 1-2), and thus claim 11 is directed towards non-statutory subject matter.

Similar analysis applies to claims 12-26, and therefore claims 12-26 are rejected for the same reasons as claim 11.

Claim 27 recites the steps of accessing at least two seller models..., and computing the amount of the product that is ATP at a seller.... The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368, 73 (Fed. Cir. 1998). The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research ((*Brenner v. Manson*, 383 U.S. 519, 528-36 (1966); *In re Ziegler*, 992 F.2d 1197, 1200-03 (Fed. Cir. 1993)).

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Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful.

In this case, claim 1 recites the steps of Claim 27 recites the steps of accessing at least two seller models..., and computing the amount of the product that is ATP at a seller.... However, claim 27 does not accomplish a practical application or provide "real world" value. The claim does not recite any steps beyond computing an amount of a product. It is unclear what is done with the amount once it is computed (i.e., is it used to manage ATP products?). Similar analysis can be applied to claims 28, 30, 31, 33, 34, 35, 36, 37, 39, 41, and 42. As such, these claims are rejected for the same reasons as claim 27.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11-16, 18, 27-32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al., EP 425,405 A2 (hereinafter James) in view of Lee et al., Pat. No. 5,712,985 (hereinafter Lee) and Rhodes, Dusty, "The keys to the enterprise: integrated applications drive information systems to new horizons - enterprise wide integration"(hereinafter Rhodes).

(A) As to claim 11, James discloses a system for managing data associated with available-to-promise (ATP) products (processes that take place in a typical manufacturing environment from the time the orders are received and the logic to arrive at the capability to promise and confirm planned shipping dates based on capacity constraints and product availability)(page 5, col. 2, lines 32-49), comprising:

- (a) planned supply of the product (i.e. planned orders to cover net requirements)(page 4, col. 1, lines 16-22 and page 7, col. 1, lines 47-51); and
- (b) customer orders for the product through the seller (i.e. customer order servicing)(page 5, col. 2, lines 32-43).

James does not explicitly disclose two seller models that each represent a seller for one or more products each product being associated with a product forecast model; and forecasted sales of the product through the seller.

However, Lee discloses each product being associated with a product forecast model (i.e. model covers each of a plurality of products)(col. 2, lines 1-9 and col. 5, lines 46-63); and forecasted sales of the product through the seller (i.e. forecast profile)(col. 3, lines 41-53). Finally, Lee discloses at least two seller models that each represent a seller for one or more products (i.e. the model should cover each of a plurality of products or business items to determine future business demand for a specific location)(col. 2, lines 1-9).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the teachings of Lee within the James system in order to provide products in timely response to customer demands (col. 1, lines 37-43).

James does not explicitly disclose pre-allocated supply of the product to the seller and the system operable to compute the amount of the product that is ATP at the seller according to the planned supply, the customer orders, the pre-allocated supply and the amount of the product that is ATP at one or more other sellers at a higher level in a seller hierarchy.

However, Rhodes discloses pre-allocated supply of the product to the seller (i.e. plan sales expectations)(pages 1 and 2) and the system operable to compute the amount of the product that is ATP at the seller according to the planned supply, the customer orders, the pre-allocated supply and the amount of the product that is ATP at one or more other sellers (i.e. linking sales and marketing strategies to material and resource scheduling ...)(page 3). As per the recitation of "the pre-allocation of the supply of the product to the seller occurring prior to distribution of the pre-allocated supply of the product to the seller," the Examiner respectfully submits that Rhodes discloses an order department being able to "look" into the manufacturing system to determine what is currently in production to give a viable ATP date (page 2). It is noted that a product must be allocated to a seller before it is distributed to the seller. For example, a customer placing an order for a product and being told when it will be delivered has "allocated" the product for himself (See also Applicant's Background of the Invention, page 2, lines 15-26). The product is then delivered to the customer

("distributed") after an order has been placed (See also Applicant's Background of the Invention, page 2, lines 15-26). As per the recitation of "at a higher level in a seller hierarchy," Rhodes discloses allowing business information systems to communicate with different trading partnerships, where the system encompass the flow of physical goods (and information) from the supplying organizations into the businesses and subsequently to its customers (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(B) As to claim 12, James does not explicitly disclose the system of Claim 11, further operable to adjust the pre-allocated supply according to one or more business criteria selected from the group consisting of seller criteria, product criteria, forecast criteria, supply criteria, customer order criteria, and policy criteria.

However, Rhodes discloses the system of Claim 11, further operable to adjust the pre-allocated supply according to one or more business criteria selected from the group consisting of seller criteria, product criteria, forecast criteria, supply criteria, customer order criteria, and policy criteria (i.e. forecasting and DRP)(page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system of Claim 11, further operable to adjust the pre-allocated supply

according to one or more business criteria selected from the group consisting of seller criteria, product criteria, forecast criteria, supply criteria, customer order criteria, and policy criteria as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(C) As to claim 13, James, and Lee do not explicitly disclose the system of Claim 11, further operable to:

communicate forecast models to a remote system; receive from the remote system a promise computed at the remote system for a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply;

receive from the remote system adjusted forecast models reflecting the promise; and recompute the amount of the product that is ATP at the seller.

However, James discloses receiving a promise for a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply (see abstract, page 5, col. 1, lines 33-59 and page 6, col. 1, lines 18-30). James further discloses receiving a promise for a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply recomputing the amount of the product that is ATP at the seller (page 3, col. 2, line 48 - page 4, col. 1, line 1). In addition, Lee discloses receiving adjusted

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forecast models reflecting the promise (i.e. variation between actual demand and the forecasted demand is used to update base and influence profiles and the forecasted demand is redetermined)(see abstract and col. 15 and col. 21, line 18 - col. 22, line 12).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include receiving adjusted forecast models reflecting the promise as disclosed by Lee within the James system in order to provide products in timely response to customer demands (col. 1, lines 37-43).

Although James and Lee do not explicitly disclose remotely located systems, Rhodes discloses enterprise wide integration of sales, marketing, material and resource systems (i.e. SOP)(see abstract). Rhodes further discloses that forecast information is communicated to a remote system (i.e. forecasting is used to drive the master production schedule) (page 3, lines 11-25). The remote system transmits a promise reflecting a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply (i.e. MPS linked with order management such that when a customer places an order..., to determine what's currently in production to give viable available to promise dates)(page 3, lines 12-25).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include performing the steps of claim 13 in remotely located systems within the James and Lee combination for the motivation of achieving business goals such as improved customer service, increased productivity and greater profitability (page 1, lines 43-45 and page 2, lines 14-25).

James and Lee do not explicitly disclose computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product. However, Rhodes discloses computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(D) As to claim 14, James does not explicitly disclose the system of Claim 13, wherein: all forecast models for one or more sellers are communicated to the remote system; the system receives from the remote system a promise also computed according to the amount of product that is ATP at one or more other sellers; and adjust the amount of the product that is ATP at one or more other sellers if the promise exceeds the allocated supply for the seller.

However, James discloses receiving a promise for a customer order computed according to the amount of product that is ATP at one or more other sellers (see abstract, page 5, col. 1, lines 33-59 and page 6, col. 1, lines 18-30). James further discloses adjusting the amount that is ATP at one or more other sellers if the promise exceeds the allocated supply for the seller (page 3, col. 2, line 48 - page 4, col. 1, line

1). In addition, Lee discloses receiving forecast models for one or more sellers (see abstract and col. 6, lines 35-60).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include receiving forecast models for one or more sellers within the James system in order to provide products in timely response to customer demands (col. 1, lines 37-43).

Although James and Lee do not explicitly disclose remotely located systems, Rhodes discloses enterprise wide integration of sales, marketing, material and resource systems (i.e. SOP)(see abstract). Rhodes further discloses that forecast information is communicated to a remote system (i.e. forecasting is used to drive the master production schedule) (page 3, lines 11-25). The remote system transmits a promise reflecting a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply (i.e. MPS linked with order management such that when a customer places an order.., to determine what's currently in production to give viable available to promise dates)(page 3, lines 12-25).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include performing the steps of claim 13 in remotely located systems within the James and Lee combination in order to achieve business goals such as improved customer service, increased productivity and greater profitability (page 1, lines 43-45 and page 2, lines 14-25).

James and Lee do not explicitly disclose adjusting the amount that is ATP at one or more sellers if the promise exceeds the pre-allocated supply of the product to the seller.

However, Rhodes discloses adjusting the amount that is ATP at one or more sellers if the promise exceeds the pre-allocated supply of the product to the seller (page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include adjusting the amount that is ATP at one or more sellers if the promise exceeds the pre-allocated supply of the product to the seller as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(E) As to claim 15, James does not explicitly disclose the system of Claim 11, wherein the forecast model further represents a quantity of the product the seller has committed to selling, the system operable to adjust the pre-allocated supply of the product for the seller according to the committed quantity.

However, Rhodes discloses the system of Claim 11, wherein the forecast model further represents a quantity of the product the seller has committed to selling, the system operable to adjust the pre-allocated supply of the product for the seller according to the committed quantity (i.e. link sales and marketing strategies to material and resource scheduling)(page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system of Claim 11, wherein the

forecast model further represents a quantity of the product the seller has committed to selling, the system operable to adjust the pre-allocated supply of the product for the seller according to the committed quantity as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(F) As to claim 16, James discloses the system of Claim 11, further operable to: accept a customer order requesting a quantity of a product through the seller (page 6, col. 1, lines 38-50). James does not explicitly disclose compute a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted according to the pre-allocated supply of the product. However, Rhodes discloses computing a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted according to the pre-allocated supply of the product (page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include computing a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted according to the pre-allocated supply of the product as disclosed by Rhodes within the James and Lee combination for the motivation allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams

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(page 1).

(G) As to claim 18, James discloses the system of Claim 11, further operable to adjust either the forecasted sales or the pre-allocated supply for a product for the seller according to an arrival rate of customer orders for the product through the seller (page 5, col. 1, line 33 - col. 2, line 18 and page 6, col. 1, lines 38-50).

(H) As to claim 27, the claim is the corresponding method claim to system claim 11 and is rejected on the same basis as claim 11.

(I) As to claims 28-32, and 34, the claims are similar in scope to claims 12-16, and 18 and are rejected on the same basis.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over James, Lee and Rhodes as applied to claim 11 above, and further in view of Frank O. Smith, "Dun & Bradstreet Software Delivers Sales and Promotion System to Manufacturers" (hereinafter Smith).

(A) As to claim 17, James does not explicitly disclose the system of Claim 11, wherein: each forecast model is extensible such that one or more policy rules may be associated with the corresponding product; each policy rule comprises a restriction on either the forecasted sales or the pre-allocated supply of the product for the seller; and

either the forecasted sales or the pre-allocated supply of the product is computed according to the policy rules.

However, Smith discloses each forecast model is extensible such that one or more policy rules may be associated with the corresponding product (i.e. SPS allows manufacturers to create and manage special product promotions based on product categories or items)(page 1, lines 21-30). Smith further discloses each policy rule comprises a restriction on either the forecasted sales or the allocated supply for the seller (i.e. price and discount effectivity dating)(page 2, lines 1-5). Finally, Smith discloses either the forecasted sales or the allocated supply is computed according to the policy rules (i.e. The system takes into account impact of scheduling the requested customer orders with orders already in progress.(page 4, col. 2, lines 35-47, page 5, col. 1, lines 37-40 and page 6, col. 2, lines).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features of Smith within the James, Lee and Rhodes combination for the motivation of speed and ease of online management of orders tied to special promotions (page 1, lines 32-34).

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over James, Lee, and Rhodes as applied to claim 27 above, and further in view of Smith.

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(A) As to claim 33, the claim is similar in scope to claim 17 and is rejected on the same basis.

10. Claims 19-26, 35-37, and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over James in view of Lee, Rhodes and Smith.

(A) As to claim 19, James discloses a system for managing data associated with available-to-promise (ATP) products (i.e. processes that take place in a typical manufacturing environment from the time the orders are received and the logic to arrive at the capability to promise and confirm planned shipping dates based on capacity constraints and product availability)(page 5, col. 2, lines 32-49), comprising: planned supply of the product (i.e. planned orders to cover net requirements)(page 4, col. 1, lines 16-22 and page 7, col. 1, lines 47-51); customer orders for the product through the seller (i.e. customer order servicing)(page 5, col. 2, lines 32-43); and allocated supply of the product to the seller (i.e. The system takes into account impact of scheduling the requested customer orders with orders already in progress. Check if there is unallocated inventory. If the system checks to see if there is unallocated inventory, then some of the inventory is allocated.)(page 4, col. 2, lines 35-47, page 5, col. 1, lines 37-40 and page 6, col. 2, lines 3-16); and wherein the system is operable to compute the amount of the product that is ATP at the seller according to the planned supply, the customer orders, the allocated supply, and

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the amount of the product that is ATP at one or more other sellers (i.e. planned production activity performed by CRP system, customer orders, allocated supply)(page 4, col. 2, lines 48-59, page 5, col. 1, line 33 - col. 2, line 18, and page 7, col. 1, lines 47-51).

James does not explicitly disclose each product being associated with a product forecast model and forecasted sales of the product through the seller. However, Lee discloses each product being associated with a product forecast model (i.e. model covers each of a plurality of products) (col. 2, lines 1-9 and col. 5, lines 46-63); and forecasted sales of the product through the seller (i.e. forecast profile)(col. 3, lines 41-53).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include each product being associated with a product forecast model and forecasted sales of the product through the seller within the James system in order to provide products in timely response to customer demands (col. 1, lines 37-43).

James and Lee do not explicitly disclose pre-allocated supply of the product to the seller, the pre-allocated supply being a supply for the product that has been pre-allocated to the seller for promising to subsequent customer orders for the product through the seller, the pre-allocation of the supply of the product to the seller occurring prior to distribution of the pre-allocated supply of the product to the seller, and the system is operable to compute the product that is ATP at a seller according to the planned supply, the customer orders, the pre-allocated supply and the amount that is ATP at one or more of the sellers at a higher level in a seller hierarchy.

However, Rhodes discloses pre-allocated supply of the product to the seller (i.e. plan sales expectations)(pages 1 and 2) and the system is operable to compute the amount of the product that is ATP at a seller according to the planned supply, the customer orders, the allocated supply and the amount of the product that is ATP at one or more other sellers (page 3). As per the recitation of "the pre-allocation of the supply of the product to the seller occurring prior to distribution of the pre-allocated supply of the product to the seller," the Examiner respectfully submits that Rhodes discloses an order department being able to "look" into the manufacturing system to determine what is currently in production to give a viable ATP date (page 2). It is noted that a product must be allocated to a seller before it is distributed to the seller. For example, a customer placing an order for a product and being told when it will be delivered has "allocated" the product for himself (See also Applicant's Background of the Invention, page 2, lines 15-26). The product is then delivered to the customer ("distributed") after an order has been placed (See also Applicant's Background of the Invention, page 2, lines 15-26). As per the recitation of "at a higher level in a seller hierarchy," Rhodes discloses allowing business information systems to communicate with different trading partnerships, where the system encompass the flow of physical goods (and information) from the supplying organizations into the businesses and subsequently to its customers (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include pre-allocated supply of the product to the seller, the pre-allocated supply being a supply for the product that has been pre-allocated to the seller

for promising to subsequent customer orders for the product through the seller and the system is operable to compute the product that is ATP at a seller according to the planned supply, the customer orders, the pre-allocated supply and the amount that is ATP at one or more of the sellers as disclosed by Rhodes within the James and Lee combination for the motivation of ease of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

James, Lee and Rhodes do not explicitly disclose at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different restriction.

However, Smith discloses at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different restriction (i.e. SPS enables manufacturers to easily track and manage special sales promotions separate and independent of standard company pricing policy. SPS enables manufacturers to create and manage special product promotions based on ... by customer type or specific customer account.)(page 1, lines 21-30).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different

restriction within the James, Lee and Rhodes system in order to speed and ease online management of orders tied to special promotions (page 1, lines 32-34).

(B) As to claim 20, James discloses the system of Claim 19, wherein the restrictions are selected from the group consisting of quantity restrictions, and lead time restrictions (i.e. whether customer specified date can be met. Check if requirements can be satisfied by unallocated inventory or unallocated scheduled production.)(page 5, col. 1, line 33 - col. 2, line 18).

James does not explicitly disclose wherein the restrictions are selected from price restrictions. However, Smith discloses wherein the restrictions are selected from price restrictions (i.e. ,manage special sales promotions separate and independent of standard company pricing policy). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the restrictions are selected from price restrictions within the James, Lee and Rhodes system in order to speed and ease online management of orders tied to special promotions (page 1, lines 32-34).

(C) As to claim 21, the claim is similar in scope to claim 12 and is rejected on the same basis.

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(D) As to claim 22, the claim is similar in scope to claim 13 and is rejected on the same basis.

(E) As to claim 23, the claim is similar in scope to claim 15 and is rejected on the same basis.

(F) As to claim 24, James and do not explicitly disclose the system of Claim 19, further operable to:

computing a promise for the customer according to the pre-allocated supply for corresponding products.

However, Rhodes discloses computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product (page 2, lines 8-15 and lines 28-33). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include computing a promise for the customer according to the pre-allocated supply for corresponding products as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

James, Lee and Rhodes do not explicitly disclose accept a customer order requesting quantities of one or more items through the seller; and compute a promise for the customer order according to the allocated supply for corresponding products,

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wherein the promise comprises a plurality of options each with one or more of the restrictions specified for these products.

However Smith discloses accepting a customer order requesting quantities of one or more items through the seller and computing a promise for the customer order according to the allocated supply for corresponding products, wherein the promise comprises a plurality of options each with one or more of the restrictions specified for these products (i.e. SPS enables manufacturers to easily track and manage special sales promotions separate and independent of standard company pricing policy. System enhancements include on line available to promise by item ...)(page 1, lines 21-30 and page 2, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include accepting a customer order requesting quantities of one or more items through the seller and computing a promise for the customer order according to the allocated supply for corresponding products, wherein the promise comprises a plurality of options each with one or more of the restrictions specified for these products within the James, Lee and Rhodes system in order to speed and ease online management of orders tied to special promotions (page 1, lines 32-34).

(G) As to claim 25, the claim is similar in scope to claim 17 and is rejected on the same basis.

(H) As to claim 26, the claim is similar in scope to claim 18 and is rejected on the same basis

(I) As to claim 35, the claim is the corresponding method claim to system claim 19 and is rejected on the same basis as claim 19.

(J) As to claims 36-42, the claims are similar in scope to claims 20-26 and are rejected on the same basis.

Response to Arguments

11. Applicant's arguments filed 21 November 2005 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Furthermore, in response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 21 November 2005 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of James, Lee, Rhodes, and Smith, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations

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given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein.

It is noted one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, it is respectfully submitted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

| | |
|----------------|---|
| (571) 273-8300 | [Official communications] |
| (571) 273-8300 | [After Final communications labeled "Box AF"] |
| (571) 273-6767 | [Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"] |

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.


Carolyn M. Bleck
Patent Examiner
Art Unit 3626

4/12/07